

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

PINNACLE PACKAGING COMPANY,)
INC., an Oklahoma corporation,)
POLO ROAD LEASING, LLC, an Okla-)
homa limited liability company, and)
J. SCOTT DICKMAN,)

Plaintiffs,)

vs.)

Case No. 12-CV-537-JED-TLW

CONSTANTIA FLEXIBLES GmbH, an)
Austrian corporation, and)
ONE EQUITY PARTNERS (EUROPE) GmbH,)

Defendants.)

**MOTION OF PLAINTIFFS TO APPLY CRIME FRAUD EXCEPTION
TO CLAIMS OF PRIVILEGE BY DEFENDANTS AND FOR
OTHER RELIEF ON CLAIMS OF PRIVILEGE**

Plaintiffs, Pinnacle Packaging Company, Inc. (“Pinnacle”), Polo Road Leasing, LLC (“Polo Road”), and J. Scott Dickman (“Dickman”) (collectively, “Plaintiffs”), hereby move the Court to apply the crime fraud exception to claims of privilege that concern (a) the Settlement Agreement and General Release between Centre Lane Partners LLC and CLP LFFlex Holdings LLC (“Centre Lane Parties”) on the one hand, and Pinnacle, Dickman, and Oracle Packaging Company, Inc. (“Oracle”) on the other hand, and the Promissory Note made by Oracle that effectuated them, (b) Wells Fargo National Bank, N.A. (“Wells”), and any of Plaintiffs, Oracle, Defendants, One Equity Partners LLC, (c) the purchase or take out of the debt owed Wells by the Plaintiffs, or an extension of the maturity date of that debt, and (d) any role of One Equity Partners (Europe) or One Equity Partners LLC in dealings with one or more of the Plaintiffs in 2012. These claims are asserted in the privilege logs of Thomas Blaigne and Thomas Blaigne & Company as set forth in Exhibit 1, of Freshfields Bruckhaus Deringer US LLP (“Freshfields”) as set forth in Exhibit 2, and of One Equity Partners

LLC as set forth in Exhibit 3, and of Defendants.¹ *In camera* review is requested specifically for those documents attached as Exhibits 4 from Thomas E. Blaise & Company, Exhibit 5 from Freshfields Bruckhaus Deringer US LLP, and Exhibit 6 from Defendants, and of the redacted copies of Exhibit Nos. 18, 20, 23, 25, 26, and 34, all as appear in the Confidential Filing without limitation as to others.

Plaintiffs have conducted a Rule 37 conference with Defendants' attorneys, but have been unable to resolve this issue. In support of this Motion, Plaintiffs have separately filed the *Confidential (Sealed) Filing in Support of Motion of Plaintiffs to Apply Crime Fraud Exception to Claims of Privilege by Defendants and for Other Relief on Claims of Privilege, and Brief in Support* (the "Confidential Filing"),² the Declaration of Lynnwood R. Moore, attached as Exhibit 33, the Declaration of Laurence L. Pinkerton, attached to the Motion as Exhibit 58, and the *Opening Brief of Plaintiffs in Support of Their Motion to Apply Crime Fraud Exception to Claims of Privilege by Defendants and for Other Relief on Claims of Privilege*.

¹ Defendants by agreement have not provided a privilege log but claims of privilege have been asserted to which this Court's ruling will apply.

² The Confidential Filing contains Exhibits 4 through 57. Certain of these have been underlined by hand to show those portions of the exhibits that are particularly germane to this Motion. Attached as Exhibit 58 to this Motion is the Declaration of Laurence L. Pinkerton that addresses the authenticity and admissibility of the Exhibits, Exhibit 59, the Declaration of J. Scott Dickman, that addresses the authenticity of Plaintiffs' Exhibits, Exhibit 60 the Affidavit of Thomas E. Blaise that addresses the authenticity of business record aspect of documents produced by Thomas E. Blaise & Company. (Executed copy to be filed upon receipt - delayed because of travel of Thomas E. Blaise.)

s/ Laurence L. Pinkerton

Laurence L. Pinkerton, Esq. (OBA #7168)

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2015, I electronically transmitted the foregoing pleading, to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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s/ Laurence L. Pinkerton